

Message Text

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INFO OCT-01 ISO-00 CIAE-00 PM-03 INR-05 L-02 ACDA-05

NSAE-00 PA-01 RSC-01 PRS-01 SP-02 USIA-06 TRSE-00

SAJ-01 EB-07 OC-01 CCO-00 /048 W

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R 292350Z NOV 74

FM USMISSION NATO

TO SECSTATE WASHDC 9090

INFO USDOC WASHDC

SECDEF WASHDC

C O N F I D E N T I A L SECTION 1 OF 2 USNATO 6670

E.O. 11652: XGDS1

TAGS: MARR NATO

SUBJECT: NICS/TARE PRICE ESCALATION

REF: USNATO 6047, 301755Z OCT 74

1. P&P COMMITTEE AT ITS MEETING ON 28 NOV 74 OBTAINED AGREEMENT OF ALL

DELEGATIONS AND NICSMA TO A COMPROMISE WHICH CLEARS THE ISSUE OF PRICE VARIATION FOR NICS/TARES PROCUREMENT. AS A RESULT, FOLLOWING TEXT, CLASSIFIED NATO RESTRICTED WILL BE INCLUDED IN NICSMA RFQ AS ARTICLE 41.

QUOTE.

ARTICLE 41 - PRICE VARIATION

41.1 THE PRICE OF THIS CONTRACT IS SUBJECT TO VARIATION IF DURING THE PERFORMANCE OF THIS CONTRACT A VARIATION OF LABOUR COSTS OCCURS.

41.2 COMPUTATION

ANY CLAIM FOR PRICE ESCALATION UNDER THIS ARTICLE WILL
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BE MADE IN COMPLIANCE WITH THE FOLLOWING MATHEMATICAL FORMULA:-

(L - LO)TL

LO PLUS-----

P EQUALS PO + F PLUS 1 -----

LO

THE LETTERS IN THIS FORMULA INDICATE:-

P EQUALS THE PRICE AT THE DATE OF DELIVERY OF THE RELEVANT PORTION OF THE DELIVERABLE ITEMS AS AGREED UPON IN THE SCHEDULE OF SUPPLIES AND SERVICES;

PO EQUALS THE PRICE AT THE DATE OF CONTRACT SIGNATURE OR AT THE DATE OF THE LATEST PRICE CHANGE;

F EQUALS INVARIABLE PORTION OF COST INCLUDING OVERHEADS AND PROFITS; THIS TO BE SET AT 50 PCT OF THE PRICE OF THE TOTAL CONTRACT AT THE DATE OF CONTRACT SIGNATURE AND EXPRESSED IN THE FORMULA AS 0.5;

L EQUALS THE VARIABLE LABOUR COST PORTION INCLUDING COSTS FOR PENSION PLANS, HEALTH AND RETIREMENT BENEFITS REQUIRED BY LAW AND/OR AS PROPERLY AGREED UPON WITH LABOUR UNIONS; THIS TO BE SET AT 50 PCT OF THE PRICE OF THE TOTAL CONTRACT AT THE DATE OF CONTRACT SIGNATURE AND EXPRESSED IN THE FORMULA AS 0.5;

LO EQUALS THE LABOUR RATE PER HOUR AT THE TIME OF PO FOR A LABOUR GROUP OF THE ELECTRICAL AND ELECTRONIC INDUSTRIES, BEING REPRESENTATIVE FOR THIS CONTRACT AND AS ISSUED BY THE RELEVANT RESPONSIBLE GOVERNMENTAL AUTHORITIES, OR AS AGREED UPON BETWEEN THE ELECTRICAL AND ELECTRONIC INDUSTRIES AND THE TRADE UNIONS OF THE NATO COUNTRIES WHERE THE CONTRACTOR AND/OR SUB-CONTRACTOR(S) PERFORM THE WORK. IF NO SUCH NATIONAL OR AGREED LABOUR RATES EXIST IN A COUNTRY WHERE WORK IS PERFORMED, THE LABOUR RATES TO BE APPLIED AND ANY INCREASES THERETO WILL BE NEGOTIATED BETWEEN NICSMA AND THE CONTRACTOR WITH-
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IN REASONABLE LIMITS;CURRENCY/HOUR

L EQUALS THE NEW LABOUR RATE ESTABLISHED IN THE SAME MANNER AS LO;

TL EQUALS THE PERIOD OF TIME BETWEEN A CHANGE TO L AND THE AGREED DATE OF DELIVERY;

TO EQUALS THE PERIOD OF TIME BETWEEN DATE OF CONTRACT OR OF THE LATEST PRICE CHANGE AND THE AGREED DATE OF DELIVERY.

41.3 LIMITATIONS

NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE,
THE PRICE VARIATION HEREUNDER SHALL BE SUBJECT TO THE FOLLOWING
LIMITATIONS:-

(A) THERE SHALL BE NO ADJUSTMENT FOR SUCH PORTION OF
THE CONTRACTOR'S PERFORMANCE WHOSE PRODUCTION
COST IS NOT AFFECTED BY A CHANGE IN THE LABOUR COST;

(B) THERE SHALL BE NO ADJUSTMENT OTHER THAN FOR IN-
CREASES IN THE LABOUR COST; INCREASES IN THE COST
OF MATERIAL DO NOT QUALIFY UNDER THIS ARTICLE;

(C) INCREASES IN THE LABOUR COST EXPERIENCED BY A SUB-
CONTRACTOR SHALL ONLY BE SUBJECT TO ADJUSTMENT
UNDER THIS ARTICLE IF THE SUB-CONTRACT CONTAINS
THE SAME CONDITIONS AS SPECIFIED HEREIN AND IF
THE SUB-CONTRACT HAS A VALUE OF NOT LESS THAN
IAU 75,000

(D) THERE SHALL BE NO ADJUSTMENT FOR SUPPLIES WHICH
WERE REQUIRED BY THE CONTRACT DELIVERY SCHEDULE
TO BE DELIVERED PRIOR TO THE EFFECTIVE DATE OF
AN ALLOWABLE PRICE VARIATION, UNLESS THE CON-
TRACTOR'S FAILURE TO DELIVER IN ACCORDANCE WITH
THE DELIVERY SCHEDULE RESULTS FROM CAUSES BEYOND
THE CONTROL AND WITHOUT THE FAULT OR NEGLIGENCE
OF THE CONTRACTOR WITHIN THE MEANING OF THE
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ARTICLE OF THIS CONTRACT HEADED "DEFAULT"; IN
WHICH CASE AN EQUITABLE EXTENSION OF THE DEL-
IVERY SCHEDULE MIGHT BE GRANTED;

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NSAE-00 PA-01 RSC-01 PRS-01 SP-02 USIA-06 TRSE-00

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(E) THERE SHALL BE NO ADDITIONAL PAYMENT FOR OVERHEADS AND PROFITS, BUT ONLY THE NET REIMBURSEMENT AS FORESEEN UNDER SUB-PARAGRAPH 41.2 OF THIS ARTICLE;

(F) NO PRICE ADJUSTMENT WILL BE ALLOWED IF THE NEW PRICE WILL BE LESS THAN 2PCT HIGHER THAN PO; AS SOON AS THE ESCALATION EXCEEDS 2PCT OF PO, THE WHOLE INCREASE WILL BE REIMBURSABLE;

(G) THE TOTAL ALLOWABLE PRICE ESCALATION SHALL NOT EXCEED 15PCT OF THE ORIGINAL TOTAL CONTRACT PRICE;

(H) THE PURCHASER SHALL BENEFIT FROM ANY DECREASE IN COSTS WHICH MAY RESULT FROM DECREASES IN THE LABOUR COSTS; FOR THAT PURPOSE, THE FINAL INVOICE SUBMITTED UNDER THIS CONTRACT SHALL INCLUDE A CERTIFICATION THAT THE CONTRACTOR HAS NOT EXPERIENCED SUCH DECREASES OR THAT HE HAS GIVEN NOTICE OF ALL SUCH DECREASES.

41.4 NOTIFICATION

THE CONTRACTOR SHALL NOTIFY THE PURCHASER OF A
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CHANGE IN THE FACTOR CAUSING A PRICE VARIATION(L) WITHIN 60 CALENDAR DAYS OF THE DATE THAT THIS CHANGE HAS BECOME OFFICIAL, SUBMITTING AT THE SAME TIME OFFICIAL CERTIFICATION OF THE CHANGE.

41.5 JUSTIFICATION

NOTWITHSTANDING ARTICLE 36 OF THE SPECIAL PROVISIONS OF THIS CONTRACT, THE CONTRACTOR SHALL JUSTIFY TO THE PURCHASER THE CLAIMED PRICE VARIATION IN DETAIL BY IDENTIFYING AND KEEPING AND MAKING AVAILABLE TO THE PURCHASER SUCH OF HIS AND/OR HIS SUB-CONTRACTOR'S BOOKS, ACCOUNTS, DOCUMENTS OR RECORDS AS ARE NECESSARY TO SHOW THE PRICE VARIATION(S) INCURRED TO DETERMINE THE VARIATION LIABLE UNDER THIS ARTICLE. THE PURCHASER OR HIS DULY AUTHORISED REPRESENTATIVE(S) SHALL HAVE THE RIGHT TO INSPECT THIS DOCUMENTATION ON THE CONTRACTOR'S AND/OR SUB-CONTRACTOR'S PREMISES AND MAKE EXCERPTS OF THEM.

41.6 PAYMENT

THE PURCHASER WILL PAY THE CONTRACTOR FOR THE INCREASED PORTION OF THE CONTRACT PRICE AS SOON AS POSSIBLE

AFTER:-

- (I) PROVISIONAL SITE ACCEPTANCE;
- (II) DELIVERY OF SUPPLIES OR SERVICES;
- (III) FINAL NETWORK ACCEPTANCE;
- (IV) COMPLETION OF THE CONTRACT;

WHICHEVER IS APPLICABLE IN ACCORDANCE WITH THE CONTRACT
DELIVERY SCHEDULE.

END QUOTE.

2. NICSMA WILL ADVISE CONTRACTORS OFFICIALLY OF THIS DECISION.
DEPARATMENT MAY WISH TO PROVIDE US BIDDERS WITH ADVANCE INFORMATION
ON THIS MATTER TO ASSIST THEM IN BID PREPARATION EFFORTS.

3. ALL CONCERNED SHOULD CLEARLY UNDERSTAND THAT THIS AGREEMENT
APPLIES AT PRESENT ONLY TO NICS/TARE PROCUREMENT, AND NOT REPEAT NOT,
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E.G.
TO AFSOUTH/TARE OR IVSN.MCAULIFFE

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<< END OF DOCUMENT >>

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